

## Message Text

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ACTION L-03

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC 8569

INFO AMEMBASSY LIMA

AMCONSUL GUAYAQUIL

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JCS

CONFIDENTIAL QUITO 4738

E.O. 11652: GDS

TAGS: OCLR; PBOR; EC

SUBJECT: ECUADOREAN REGULATIONS GOVERNING VISITS BY

TOURIST OR RESEARCH VESSELS TO CLAIMED TERRITORIAL WATERS

REF: QUITO A-107, AUGUST 10, 1973

1. SUMMARY: ON SIX DIFFERENT OCCASIONS SINCE FEBRUARY OF THIS YEAR ECUADOREAN AUTHORITIES HAVE DETAINED OR DELAYED PRIVATE U.S. RESEARCH OR TOURIST VESSELS FOR LACK OF PROPER DOCUMENTATION IN CONNECTION WITH NEW GOE REGULATIONS GOVERNING VISITS TO ECUADOREAN COAST, ISLANDS AND CLAIMED TERRITORIAL SEA (REFERENCE.) REGULATIONS ARE PHRASED IN SUCH A WAY THAT THEY HAVE OBJECTIONABLE LAW OF THE SEA CONNOTATIONS; BUT GOE SUBSECRETARY FOR FOREIGN AFFAIRS ASSURES US THAT REGULATIONS ARE DESIGNED TO APPLY ONLY TO VESSELS VISITING ECUADOREAN COAST AND GALAPAGOS FOR TOURIST AND SCIENTIFIC PURPOSES AND ARE NOT IN ANY WAY DESIGNED TO INTERFERE WITH "FREE TRANSIT" OF VESSELS PROCEEDING THROUGH CLAIMED ECUADOREAN

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TERRITORIAL WATERS TO OTHER DESTINATIONS. IN ORDER TO

MINIMIZE FUTURE INCIDENTS, THEREFORE, WE RECOMMEND THAT OWNERS OF U.S. VESSELS BE ADVISED OF ECUADOREAN REQUIREMENTS GOVERNING VISITS TO ECUADOR COAST OR GALAPAGOS FOR TOURIST OR RESEARCH PURPOSES.

2. SINCE FEBRUARY OF THIS YEAR SIX PRIVATELY OWNED UNITED STATES TOURIST OR RESEARCH VESSELS HAVE BEEN DELAYED OR DETAINED FOR NON-COMPLIANCE WITH NEW ECUADOREAN REGULATIONS GOVERNING VISITS TO CLAIMED ECUADOREAN TERRITORIAL WATERS. FOUR OF THE VESSELS HAVE BEEN PRIVATE YACHTS; TWO HAVE BEEN RESEARCH VESSELS. IN ONE INSTANCE DELAY INVOLVED BEFORE YACHT WAS PERMITTED TO PROCEED WAS 17 DAYS.

3. EACH INSTANCE OF DETENTION OR DELAY HAS REQUIRED ASSISTANCE TO AMERICAN CITIZENS CONCERNED BY AMCONGEN GUAYAQUIL AND NAVAL ATTACHE, QUITO. PRACTICE HAS BEEN TO INTERVENE ORALLY WITH GOE AUTHORITIES AS WELL AS TO COUNSEL THAT U.S. OWNERS SUPPLY DOCUMENTATION REQUIRED BY PARAS 3 AND 4 OF THE NEW REGULATIONS (REFAIR.) IN TWO INSTANCES WE WERE ABLE TO SECURE THE RELEASE OF TWO PLEASURE YACHTS WITHOUT THEIR SUBMITTING ANY DOCUMENTS.

4. AS DEPARTMENT KNOWS, NEW GOE REGULATIONS ARE CUMBERSOME AND ONEROUS. REGULATIONS REQUIRE VESSEL OWNERS TO APPLY IN WRITING AT LEAST 60 DAYS IN ADVANCE OF PLANNED TRAVEL INTO ECUADOREAN CLAIMED TERRITORIAL WATERS GIVING FULL PARTICULARS AND, IN CASE OF SCIENTIFIC RESEARCH, PROVISION OF A WRITTEN UNDERTAKING TO SHARE RESEARCH RESULTS WITH GOE.

4. A COMPLICATING FACTOR IN THE SITUATION IS THAT ECUADOREAN CONSULATES DO NOT SEEM TO BE AWARE OF PROCEDURES REQUIRED FOR THE ADVANCE CLEARANCES IN QUESTION. SPECIFICALLY, IN THE CASES DEALT WITH SO FAR, THE AFFECTED U.S. CITIZENS TOUCHED BASE WITH GOE CONSULATES IN EITHER SAN DIEGO, LOS ANGELES OR PANAMA AND WERE NOT ADVISED OF THESE REQUIREMENTS.

6. IN DECIDING ON WHAT COURSE OF ACTION USG SHOULD TAKE  
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IT SEEMS WE MAY BE CONFRONTED WITH TICKLISH LOS PROBLEMS ANALOGOUS TO THOSE POSED BY FISHERIES ISSUE. A LITERAL READING OF THESE REGULATIONS WOULD RENDER THEM APPLICABLE TO PLEASURE OR RESEARCH CRAFT ANYWHERE WITHIN THE AREA OF CLAIMED ECUADOREAN WATERS. IN PRACTICE, ALL INCIDENTS HAVE INVOLVED VESSELS VISITING OR PLANNING TO VISIT THE GALAPAGOS WHICH IS ALSO AN ECUADOREAN NATIONAL PRESERVE.

7. IN DISCUSSING THIS ISSUE WITH FOREIGN OFFICE SUB-SECRETARY JAIME MONCAYO SEPTEMBER 7, HE EXPLAINED THAT THE WORD "VISIT" HAD BEEN CHOSEN CAREFULLY IN DRAFTING THE REGULATIONS AND THAT THEY HAD IN NO WAY BEEN DESIGNED TO AFFECT VESSELS TRANSITING CLAIMED ECUADOREAN WATERS. NOR, ACCORDING TO MONCAYO, WERE REGULATIONS MEANT TO APPLY TO VESSELS MERELY PULLING INTO ECUADOREAN PORTS FOR PROVISIONS.

8. MONCAYO ELABORATED AT SOME LENGTH ON ECUADOR'S CONCEPT OF "FREE TRANSIT" AND THE ABSENCE OF ANY INTENTION ON HIS COUNTRY'S PART TO INTERFERE WITH NAVIGATION THROUGH ITS CLAIMED WATERS. AS EXAMPLE, HE STATED THAT ECUADOR HAD NO INTEREST WHATSOEVER IN INTERFERING WITH SUBMERGED US SUBMARINES FREELY PASSING THROUGH ITS WATERS AS LONG AS THEY DID NOT STOP IN CLAIMED ECUADOREAN TERRITORY TO ENGAGE IN SUCH ACTIVITIES AS RESEARCH, CONTAMINATION, ETC. CONCEPT OF "INNOCENT PASSAGE", HE ADDED, WAS RENDERED IRRELEVANT BY 200 MILES TERRITORIAL LIMIT.

9. MONCAYO'S ASSURANCES NOTWITHSTANDING, US COMPLIANCE WITH LATEST ECUADOREAN REGULATIONS COULD BE INTERPRETED AS ANOTHER EXAMPLE OF U.S. ACQUIESCENCE IN ECUADOREAN REGULATION OF ITS CLAIMED TERRITORIAL SEA. AS A PRACTICAL MATTER, HOWEVER, INCIDENTS HAVE INVOLVED VESSELS CLOSE TO COAST OR ACTUALLY IN PORT AND IT IS DIFFICULT TO SEE WHAT ALTERNATIVES U.S. VESSEL OWNERS HAVE IF THEY WISH TO VISIT ECUADOREAN COAST OR GALAPAGOS FOR TOURIST OR RESEARCH PURPOSES.

10. WE, THEREFORE, RECOMMEND THAT U.S. VESSEL OWNERS BE ADVISED, BY WHATEVER MEANS WASHINGTON AGENCIES CONSIDER MOST APPROPRIATE, OF ECUADOREAN REQUIREMENTS GOVERNING CONFIDENTIAL

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VISITS TO ECUADOREAN COAST OR GALAPAGOS FOR THE ABOVE STATED PURPOSES. WE WOULD ALSO APPRECIATE RECEIVING DEPARTMENT'S GENERAL VIEWS ON THIS SUBJECT AND GUIDANCE IT MAY HAVE ON HANDLING ANY FUTURE INCIDENTS WHICH MIGHT ARISE. PENDING DEPARTMENT'S COMMENTS, WE WILL CONTINUE TO HANDLE INDIVIDUAL INCIDENTS ALONG LINES OUTLINED PARA 3 ABOVE.

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